**Questionnaire of the Independent Expert on the enjoyment of all human rights by older persons on best practices in the implementation of existing law related to the promotion and protection of the rights of older persons**

The Human Rights Council, in its resolution 24/20, requested the Independent Expert on the enjoyment of all human rights by older persons, Ms. Rosa Kornfeld-Matte, to assess the implementation of existing international instruments with regard to older persons while identifying best practices and gaps in the implementation of existing law related to the promotion and protection of the rights of older persons and gaps in the implementation of existing law.

Pursuant to this request, the Independent Expert has prepared this questionnaire to identify best/good practices. The responses to the questionnaire, as well as the country visits undertaken will contribute to the comprehensive report of the Independent Expert that will be presented to the Human Rights Council in September 2016.

In order to enable the Independent Expert to consider the submissions in good time for the report, all stakeholders are encouraged to submit the responses to the questionnaire at their earliest convenience and no later than 18 December 2015.

Kindly indicate whether you have any objection for the responses provided to be made available on the OHCHR webpage of the Independent Expert on the enjoyment of all human rights by older persons.

**Definition of good/best practices**

The term “best practices” is defined broadly in order to include different situations that could be considered positive and successful in a country and could inspire others. Therefore, practice is understood in a comprehensive way, including legislations, policies, strategies, statute, national plans, regulatory and institutional frameworks, data collection, indicators, case law, administrative practices, and projects among others. The practice could be implemented by different actors, State, regional and local authorities, public and private providers, civil society organisations, private sector, academia, national human rights institutions, or international organisations.

To be a good/best practice, the practice should integrate a human rights based approach when implementing existing international instruments related to the promotion and protection of the rights of older persons.

The questionnaire should preferably be completed in English, French or Spanish. The responses to the questionnaire can be transmitted electronically to the Independent Expert, Ms. Rosa Kornfeld-Matte and to be sent to [olderpersons@ohchr.org](mailto:olderpersons@ohchr.org), with copy to Mr. Khaled Hassine, [khassine@ohchr.org](mailto:khassine@ohchr.org) by 18 December 2015.

Please include in your submissions the name of the State/organization submitting the practice, as well as contact details. Feel free to attach additional pages if you have several good/best practices to share.

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The Independent Expert would like to thank you for your support!

For more information on the mandate of the Independent Expert, please visit: <http://www.ohchr.org/EN/Issues/OlderPersons/IE/Pages/IEOlderPersons.aspx>

**Questionnaire**

of the Independent Expert on the enjoyment of all human rights by older persons on best practices in the implementation of existing law related to the promotion and protection of the rights of older persons

1. **Name of the practice:**

* “**The protection of older persons against violence**”. An expert survey upon possibilities and obstacles in the implementation of existing laws in Austria.

1. **Area concerned:**

Discrimination (e.g. legal/institutional framework, access to facilities and services, etc.

Violence and abuse

Adequate standard of living (e.g. resource availability, housing, etc.)

Independence and autonomy (e.g. legal guardianship, accessibility, etc.)

Participation

Social protection (e.g. social security, incl. pension)

Education, training and lifelong learning

Care (home, family or institutional care, long-term care, palliative care, geriat ric services, quality of care and availability of services, care workers, etc.)

1. **Type of practice:**

Legal (Constitution, law, etc.)

Policy/Programme/Strategy/Action Plan on Ageing

Institution

Regulation

Administrative practice

Case law/jurisprudence

Disaggregated statistical data by age/gender

Training programme

Other (please specify): scientific research

**4. Level of implementation:**

National

Local (Sub-national, community, urban/rural area)

Other (please specify):....................................

**5. Please describe the practice, including a) its purpose; b) when and how it was adopted; c) how long it has been used/implemented; and d) its geographic scope.**

1. The Federal Ministry of Labour, Social Affairs and Consumer Protection conducted workshops on “**violence against older persons**” examining potential sources of danger, possible counter- and protective measures on the basis of the Austrian legal system and court decisions. The participants reported that in practice obstacles persist in the implementation and application of the existing law. Due to this outcome the Federal Ministry commissioned the aforementioned survey.
2. The survey was commissioned in 2013
3. and completed in 2015
4. the survey was conducted all over the federal territory.

**6. Which actors are involved in the development and implementation of such practice?** For instance, national and local authorities; private and public sector; academia; civil society organizations; international or regional organizations; older persons themselves, among others.

* Research: academia
* Experts: Persons working in the field of jurisdiction, medicine, care and (psychosocial) assistance for victims.

**7. Which rights of older persons does the practice promote and protect?**

* Right to physical and psychological integrity
* Protection against violence, maltreatment, abuse, neglect and discrimination on age. Self-determination and life in dignity

**8. How does the practice promote or protect such rights?**

* Because of the outcome of the survey, which examined obstacles and problems at the implementation of the existing laws in the field of violence against older people, corresponding measures can be taken.

**9. What groups of older persons** (for instance, older women, persons with disabilities, persons of African descent, individuals belonging to indigenous peoples, persons belonging to national or ethnic, religious and linguistic minorities, rural persons, persons living on the streets, and refugees, among other groups), **if any, particularly benefit from the practice?**

* Older women (as well as young women which are frequently effected)

**10. How has the practice been assessed and monitored? Please provide specific information on the impact of the practice, with data, indicators, among others, if any.**

* Peer-reviews from jurists and scientists in the field of ageing

**11. What lessons do you believe could be learnt from this practice? How could it be improved?**

* The phenomena of violence, abuse, neglect, exploitation, discrimination and so on have manifold facets and shades. At the same time relevant areas of law are also characterized for a wide range of norms. Very different are the respective social, socio-political and psychological reaction patterns as they arise in the practice of social life of older people in the vicinity of family and neighbourhood or in connection with assistance to the elderly in stationary and mobile care service institutions. There are tensions between the legal system and the affected institutions and occupational groups. The case law can only take into consideration to some extend the (subjectively) perceived stress in geriatric and nursing practice (e.g. caused by shortage of staff). The problems are only partly in the legal field. The difficulties arise typically from inadequate conditions of the social environment, in particular caused by imperfect or missing psychosocial care and support.
* For the different areas of concern, the responsibilities must be clarified and the proposed possible solutions in the survey have to be tested for their feasibility!

**12. How could this practice be a model for other countries?**

* It is interesting for every country, to question the applicability of its own existing legal norms for the elderly.

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